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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,919	06/27/2003	Stanley J. Riske	AIR-103-A	7038

7590 07/27/2005

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EXAMINER

TRIEU, THERESA

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,919

Applicant(s)

RISKE, STANLEY J.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on June 27, 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is responsive to the applicant's amendment filed on April 25, 2005.

Claims 1-8 have been canceled. Claims 9-12 have been added. Thus, claims 9-12 are pending in this application.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show "shank (50) and threads (52) (see Fig. 2) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: page 6, last line should be deleted because it is a duplicate of line 1 on page 7. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the phrase "a sufficient degree of restrain" renders the claim indefinite because it is unclear how much degree of restrain is sufficient to terminate the oscillating fan. Additionally, the recitation that an element is "sufficient" to perform a given function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

The claims not specifically mentioned are indefinite since they depended from claim 9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 9 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by either Schneider (Fig. 4) or Song et al. (Song) (Fig. 16).

Each of the references shows a clutch for an oscillating fan characterized by its ability to automatically adjust to zero oscillation upon restraint, comprising a fan motor having a drive shaft (12 in Schneider and 48 in Song) rotating in a given direction about a first axis; a bell crank (14 in Schneider and 34 in Song) mounted upon the drive shaft for rotation therewith about the first axis of rotation; an oscillating lever drive pin support (15 in Schneider and 32 in Song) rotatably adjustably mounted on the bell crank about a second axis of rotation (18 in Schneider and the central axis of 32/34 in Song) radially offset and parallel to the first axis of rotation; an oscillating lever drive pin (21 in Schneider and 38 in Song) mounted on the lever drive pin support adopted to be affixed to a fan oscillating lever (22 in Schneider and 56 in Song), the pin having a third axis radially offset from the second axis a distance equal to the offset of the second axis from the first axis; an indexing means (26 in Schneider and 88 in Song) interposed between the second side of the bell crank and the third side of the pin support permitting relative indexing rotation there between about the second axis to adjust the eccentricity between the first and third axis; and wherein a sufficient degree of the restrain (28 in Schneider and 82 in Song) imposed upon the fan oscillation causes the bell crank causes the first axis and second axis to automatically become aligned, thereby terminating the oscillating.

In the above references, in the event that during oscillation the fan structure, motor housing, or fan guard engages a fixed object, or relatively fixed object, a torque is immediately applied to the pin support by the oscillating lever. This torque, which will prevent further rotation of the pin support, causes the detent (29) in Schneider or the balls (84) in Song to ride

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out of their associated recesses and automatically adjust the rotation between the bell crank and pin support to reduce the degree of oscillation as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Song.

Song discloses the invention as recited above; however, Song fails to disclose a range of the predetermined oscillation angle. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the indexing means has predetermined oscillation angles of 45 and 90 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

Response to Arguments

Applicant's arguments filed on April 25, 2005 have been fully considered but they are not persuasive.

Applicants state that new independent claim 9 combines the limitations of previous claims 1 and 4-7 (see Remarks, page 3). The examiner respectfully disagrees. A new claim 9

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does not including the limitations of the base claim 1 and 2 as “frictional releasable means” and the “spring means” .

Applicants should note that “a sufficient degree of restrain” is a functional recitation has not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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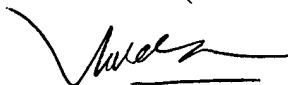
Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT
July 14, 2005


Theresa Trieu
Primary Examiner
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